



# Security Council

Sixty-seventh year

Provisional

6782<sup>nd</sup> meeting

Thursday, 7 June 2012, 10.15 a.m.

New York

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|-------------------|------------------------------------------------------------|--------------------------|
| <b>President:</b> | Mr. Wang Min .....                                         | (China)                  |
| <b>Members:</b>   |                                                            |                          |
|                   | Azerbaijan .....                                           | Mr. Mehdiyev             |
|                   | Colombia .....                                             | Mr. Quintana             |
|                   | France .....                                               | Mrs. Le Fraper du Hellen |
|                   | Germany .....                                              | Mr. Berger               |
|                   | Guatemala .....                                            | Mr. Rosenthal            |
|                   | India .....                                                | Mr. Kumar                |
|                   | Morocco .....                                              | Mr. Bouchaara            |
|                   | Pakistan .....                                             | Mr. Ahmad                |
|                   | Portugal .....                                             | Mr. Madureira            |
|                   | Russian Federation .....                                   | Mr. Karev                |
|                   | South Africa .....                                         | Mr. Tladi                |
|                   | Togo .....                                                 | Mr. Afande               |
|                   | United Kingdom of Great Britain and Northern Ireland ..... | Mr. McKell               |
|                   | United States of America .....                             | Mr. DeLaurentis          |

## Agenda

International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994

Letter dated 23 May 2012 from the President of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 addressed to the President of the Security Council (S/2012/354)

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This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. The final text will be printed in the *Official Records of the Security Council*. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-506.



Letter dated 22 May 2012 from the President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994, addressed to the President of the Security Council (S/2012/349)

*The meeting was called to order at 10.15 a.m.*

#### **Adoption of the agenda**

*The agenda was adopted.*

**International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991**

**International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January 1994 and 31 December 1994**

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**The President (*spoke in Chinese*):** Under rule 37 of the Council's provisional rules of procedure, I invite the representatives of Croatia, Rwanda and Serbia to participate in this meeting.

Under rule 39 of the Council's provisional rules of procedure, I invite the following briefers to participate in this meeting: Judge Theodor Meron, President of the International Criminal Tribunal for the Former Yugoslavia; Judge Vagn Joensen, President of the International Criminal Tribunal for Rwanda; Mr. Serge Brammertz, Prosecutor of the International Criminal Tribunal for the Former Yugoslavia; and Mr. Hassan

**Bubacar Jallow, Prosecutor of the International Criminal Tribunal for Rwanda.**

The Security Council will now begin its consideration of the item on its agenda.

I wish to draw the attention of Council members to documents S/2012/354 and S/2012/349, which contain, respectively, a letter dated 23 May 2012 from the President of the International Criminal Tribunal for the Former Yugoslavia, and a letter dated 22 May 2012 from the President of the International Criminal Tribunal for Rwanda.

I now give the floor to Judge Meron.

**Judge Meron:** It is an honour for me to appear before the Security Council today to address the Tribunal's progress in completing its mandate as set forth in the written report (see S/2012/354) recently submitted to the Council.

I am pleased to report that the Tribunal has made great strides in the implementation of the completion strategy and in facilitating a smooth transition to the International Residual Mechanism for Criminal Tribunals. Reforms have been implemented in a number of areas and have already positively impacted the pace of our work, without sacrificing due process.

At the same time, the Tribunal still faces difficult challenges, particularly with regard to staff attrition. Valuable and long-serving employees continue to depart for more secure employment opportunities. In addition, our preparations for the transition to the Residual Mechanism have called for the resolution of a multitude of novel practical and legal questions.

As explained in my report submitted on 23 May, most of the Tribunal's ongoing trials are forecast to end soon. Of the eight trials currently in progress, five are expected to be completed by December 2012. However, other trials, including those that involve the recently arrested accused, namely, Karadžić, Mladić, and Hadžić, will take longer to complete. It is anticipated that the trials of Mladić and Hadžić may continue past the indicated completion date of December 2014. The Council may rest assured that the benches hearing those cases continue to focus on innovative ways to minimize potential delays while fully protecting the rights of the accused.

In that respect, I note that due to efficiency measures adopted in pre-trial proceedings, the *Mladić* case

commenced on 16 May 2012, which is six months before the anticipated start date forecast in last November's report (see S/2011/473) to the Council. While there has been a short adjournment due to disclosure failures, that delay is not likely to significantly impede the progress of the case.

The *Hadžić* case is due to commence in October 2012, which is three months ahead of the anticipated start date previously reported. During my last presentation (see S/PV.6678) to the Council, I advocated the reassignment of contempt cases to ad litem judges. That reform, aimed at relieving the burden falling on our permanent trial judges, some of whom were forced to balance up to eight contempt cases alongside two substantive cases, greatly helped us in moving those substantive cases along. I would like to express my great appreciation to the Council for supporting that reform. I am pleased to report that the reassignment of contempt cases has been one of the factors that have allowed cases such as *Hadžić* to be trial-ready earlier than previously anticipated.

The Tribunal's Appeals Chamber is also making great progress towards the completion of the cases on its docket. For example, due to the adoption of innovative measures, the hearing in the *Gotovina and Markač* case was held more than nine months earlier than previously forecast. Likewise, preparations in the *Perišić* appeal are advancing very rapidly. While great strides have been made in those cases, the complexity of issues involved in one multi-accused case, coupled with translation and staffing issues, has caused that case to suffer delays. The bench in that case is taking all possible measures to minimize further delays. With respect to future potential appeals, it is anticipated that any appeals in the cases of the lately arrested accused — *Karadžić*, *Mladić*, and *Hadžić* — will fall under the competence of the Residual Mechanism.

I would like to draw the particular attention of the Security Council to the cases of *Tolimir* and *Prlić et al*, in which trial judgements are expected by the end of this year, and to the *Šešelj* case, in which a trial judgement is now expected by March 2013. As members may recall, during my last presentation to the Security Council, I reported on measures I had adopted to reduce the time required for translation in these cases by 50 per cent. Those measures are still in place, but unforeseen delays in the trials themselves have delayed the relevant trial judgements. As a result, depending on when the trial judgements are delivered and on the procedural

postures adopted by different parties, it is possible that any appeals in some or all of those three cases will fall within the jurisdiction of the Residual Mechanism, even though the relevant translation times have been reduced dramatically. If, however, appeals in those cases are filed before the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia (ICTY), based on current forecasts, that would lead the ICTY Appeals Chamber and the Appeals Chamber of the Residual Mechanism to operate in tandem until 2016.

I am frequently asked about the health of one detainee, Mr. Vojislav Šešelj. I would underscore that Mr. Šešelj, like all detainees, is entitled to and receives the highest standard of medical care in the Netherlands. I personally take great interest in ensuring that all detainees receive the best medical care possible. While medical information on individual detainees must of course be, and remain, confidential, I can inform the Council of my confidence that all possible measures are being taken to ensure Mr. Šešelj's health.

While the factors leading to delays are often beyond my control, I can also assure Council members that I am taking all possible measures consistent with principles of due process and judicial independence to ensure the completion of those cases, including the necessary translations, as soon as possible.

Another reform that has benefited the Tribunal during the reporting period is the waiver of the prohibition on the direct hiring of interns maintained by the Office for Human Resources Management of the United Nations. The lifting of that prohibition has already allowed the Tribunal to take steps to mitigate the effects of staff departures in particular cases. While the Tribunal is extremely grateful for the support expressed for that reform during my previous visit to the Council, I must emphasize that that measure is not a panacea. Highly experienced and valued staff members continue to leave the Tribunal in increasing numbers. The Tribunal has made little progress in securing support for the different staff retention measures that it has presented to the United Nations over more than half a decade. As set forth in my report, delays in several ongoing cases can be directly attributed to staff attrition. Given that unfortunate reality, the Tribunal can only strive to ensure that staff departures do not unduly impact the Tribunal's completion strategy, and that they do not place too onerous a burden on the remaining staff, whose extraordinary commitment, diligence and talents are fundamental to the Tribunal's continuing success.

I shall now turn to the Tribunal's progress in preparing for the transition to the Residual Mechanism. I am very pleased to report to the Council that the transition is proceeding smoothly, thanks in great part to the Registrar of the Residual Mechanism and the ICTY and to the Registrar of the International Criminal Tribunal for Rwanda (ICTR). In accordance with resolution 1966 (2010), the Residual Mechanism will commence operations on 1 July with the opening of the Arusha branch of the Mechanism.

In anticipation of that milestone, we have taken a number of important steps, including swearing in all judges. We have also circulated the draft rules of procedure and evidence to the judges for their consideration. I have every expectation that the rules will be adopted without delay. Thanks to the constructive cooperation of my colleagues, therefore, we have been able to complete the swearing in of judges. We hope that the rules will be adopted expeditiously. I note that by deploying innovative processes to complete those tasks, we have conserved United Nations resources to the maximum extent possible. We have also been advertising vacancies in order to recruit the necessary staff. I wish to express my appreciation to the Office of Human Resources Management for authorizing the Registrar of the Residual Mechanism to transfer a number of staff from the Tribunal and from the ICTR to the Mechanism via a transparent recruitment process that avoids the delays sometimes associated with the Inspira recruitment system of the United Nations.

In early May, the first Coordination Council meeting of the principals of the Residual Mechanism was convened in Arusha, followed by a first ever joint Coordination Council meeting between the principals of the Mechanism and the principals of the ICTR. Those meetings enabled us to reach a number of vital decisions related to the orderly transfer of ICTR functions to the Mechanism, such as the monitoring of cases referred to national jurisdictions.

Thanks to those preparations, on 1 July the Residual Mechanism will be ready to assume competence over all judicial and prosecutorial functions identified in resolution 1966 (2010) in relation to the ICTR, including the protection of victims and witnesses, the tracking of fugitives, the enforcement of sentences, contempt proceedings, and the monitoring of rule 11 bis transfers.

In addition, as Council members are aware, the Residual Mechanism may soon be called upon to exercise

jurisdiction over the appeals, if any, in up to three ICTR cases in which trial proceedings were recently delayed. Appeals in those cases, originally budgeted for by the ICTR, will require the assignment of an appeals bench of Residual Mechanism judges and the support of legal and administrative staff. They will therefore have financial consequences for the Residual Mechanism not previously foreseen. It is now understood that certain other judicial activities provided for in the budget of the Residual Mechanism will not occur. The funds budgeted for those activities can therefore be used to support the appeals, if any, in the ICTR cases. Nevertheless, the overall cost to the United Nations will be greater than formerly envisaged.

Finally, in accordance with resolution 1966 (2010), the Tribunal continues to work with the countries of the former Yugoslavia to facilitate the establishment of information centres in the region. During the reporting period, Croatia advised the Tribunal of its commitment to the establishment of such a centre and its identification of a building for that purpose. The Bosnian and Croat members of the Presidency of Bosnia and Herzegovina have also recently indicated their support for the establishment of information centres in Sarajevo. The Tribunal is currently collaborating with partner organizations, including the United Nations Development Programme, the United Nations Interregional Crime and Justice Research Institute and the Government of Switzerland in moving the project to the next stage. The Tribunal is still awaiting word from the Government of Serbia as to whether it wishes to proceed with the establishment of information centres on its territory.

The reporting period has been one of great productivity on the part of the Tribunal, leading to substantial progress towards the completion of its mandate. That positive development is largely thanks to the exceptional efforts of the Tribunal's judges and staff and to the implementation of management reforms. I would emphasize once more the great challenges related to the Residual Mechanism and the stellar work of all those involved in facilitating a seamless transition to, and smooth commencement of, the Mechanism. They should be congratulated for their dedication.

By establishing the Residual Mechanism, the Council has helped to guarantee that the closure of the two pioneering ad hoc tribunals does not open the way for impunity to reign once more, whether for those whose trials or appeals before the ICTY and the ICTR

will not have been completed or for those remaining fugitives indicted by the ICTR who must still be brought to justice. With the Residual Mechanism, the Council has also helped to ensure that the rights of victims, witnesses, persons whose cases have been referred to national jurisdictions and persons tried or convicted by the Tribunal and the ICTR will remain both respected and protected, even after the two original ad hoc tribunals cease to function. Furthermore, in creating the Residual Mechanism, the Council has devised a means to protect and, wherever possible, share the unprecedented body of jurisprudence, evidence and other historic records of the ICTY and the ICTR for generations to come. In short, the success of the Residual Mechanism is not simply important for the sake of that institution; the Mechanism's effectiveness is also crucial to safeguarding the Tribunal's own invaluable legacy.

On behalf of the Tribunal, I thank the Council for its continuing support and for its commitment to making sure that the very best traditions of international criminal justice — which the Tribunal has helped to define for nearly two decades — live on.

**The President (spoke in Chinese):** I thank Judge Meron for his briefing.

I now give the floor to Judge Joensen.

**Judge Joensen:** I would like to begin by congratulating the Permanent Representative of China, the Council member which holds the presidency of the Security Council for the month of June. I wish you, Sir, all the best for a successful tour of duty.

It is a great honour for me to address the members of the Security Council as the new President of the International Criminal Tribunal for Rwanda (ICTR) and to present the Council with the current update on our completion strategy. I would like to express the appreciation of the entire Tribunal to all of the Governments of the Security Council for their continued support as we draw ever closer to the completion of our work. I would also like to congratulate the Permanent Representative of Council member Guatemala, who has taken over as Chair of the Informal Working Group on International Tribunals.

I am happy to report to the Council that since the last report (see S/2011/731) the Tribunal has undergone a significant shift with respect to both judicial and administrative activities. As we near the completion of all trial work, judicial and legal activities have become

more focused on requests for referral of cases to Rwanda, and administrative energies are increasingly spent on downsizing and providing the support necessary for the opening of the Arusha branch of the Residual Mechanism next month. However, none of that has taken away from the core of our work, which is to complete all trial and appellate proceedings in a fair and expeditious manner.

In December 2011, in line with projections since 2010, the final multi-accused trial judgement was delivered in the *Karemera et al.* case, marking the most expeditious judgement delivery in a multi-accused case and showing that efforts to improve efficiency in recent years have been effective in many cases. During that same month, the Appeals Chamber upheld the decision to refer the first ICTR case to Rwanda for trial. After finalizing the arrangements for monitoring, Jean Uwinkindi was transferred to Rwanda in April 2012. A further three cases of fugitive accused have already been referred to Rwanda. The Prosecutor has also requested, or will request, three more referrals of fugitive cases, all of which will be disposed of by next month. The final three fugitives, for whom evidence preservation will be concluded this month, are slated for trial by the Residual Mechanism upon arrest. The Prosecutor will provide further details on fugitive referral applications and tracking during his presentation.

Five trial judgements were projected for delivery during this six-month reporting period. Of the five, all but one will have been delivered by the end of this month. Owing to unforeseeable fair-trial requirements, including the necessary continuation of the evidence phase of the trial, judgement in the trial of Augustin Ndirabatware — the final remaining ongoing ICTR trial — is now expected by the end of 2012, and closing arguments are scheduled for next month. Additionally, just yesterday the Trial Chambers granted the application for referral to Rwanda of the case against Bernard Munyagishari, the final accused in pre-trial custody at the Tribunal. I must note that the accused may appeal that decision. If that happens, we hope to have a decision from the Appeals Chamber in the next several months.

Therefore, based upon the current status of cases, in stark contrast to the report delivered only six months ago, I am happy to bring news that the Tribunal now has a vastly reduced judicial workload. Due in no small part to the continued hard work of our staff, nearly all trial work is complete. Only one trial judgement in an ongoing case will remain to be delivered in the second

half of 2012. All appeal judgements remain on track to be completed by the end of 2014.

It must be noted, however, that pursuant to the transitional arrangements the responsibility for two pending contempt of court/false testimony cases where indictments have already been confirmed remains with the ICTR. In the event of arrests in those cases, or if the Munyagishari referral is not upheld on appeal, the anticipated completion of trial work may need to be pushed back.

I would also like to take this opportunity to provide the members of the Council with an update on the status of the three cases on which there remains some question as to whether the appeals, if any, would be filed with the ICTR or the Residual Mechanism. For the first two cases, there is a possibility for the appeals to remain with the ICTR. The third will certainly go to the Residual Mechanism.

In the *Nizeyimana* case the judgements will be delivered later this month; in the *Nzabonimana* case, oral judgement was rendered last week and the written judgement will be filed later this month. Whether the ICTR or the Residual Mechanism hears the appeal in those two cases will depend upon the dates that the notice of appeal in each case is filed.

The parties have 30 days from the filing of the written judgement to file their notice of appeal, if any. In both cases notices of appeal could be filed prior to 30 June, causing them to be heard by the ICTR. However, in both cases the time limits for filing allow the parties to file after 1 July, the date from which cases go to the Residual Mechanism. For the third case, *Ngirabatware*, it is now clear that the trial judgement will not be delivered before 30 June, so the appeal will certainly go to the Residual Mechanism.

Next, I turn to an important recent request that I have sent to the Security Council and the General Assembly seeking the extension of the terms of office for the trial judges on the *Ngirabatware* case and the President, to correspond with our remaining work. The terms of the judges on the *Ngirabatware* bench are required to be extended until December 2012, or until judgement is rendered, if earlier. My term is required to be extended until December 2014, in line with the projected completion of all judicial work. Those extensions are critical to ensuring that we meet our remaining goals for the completion of our mandate.

Next, I turn to staffing. In continuation of a recurring theme in recent reports, staff recruitment, retention and separation persist as ongoing challenges as we progress in the completion process. Where recruitment is required, the Tribunal has difficulty attracting suitably qualified candidates, given the limited contractual security that we as a closing institution can provide. The ICTR continues to experience difficulties in retaining experienced staff, who lack financial incentives to stay with the Tribunal to complete their work, have few possibilities for upward mobility and have reduced contractual security. They have therefore been leaving the Tribunal to accept offers of employment elsewhere, either within or outside the United Nations system. Although we continue to work within the resources available and to make significant progress, staff retention always has the potential to adversely impact the successful and timely completion of our work.

The downsizing process that began in 2008-2009 continues with the proposed abolition of 212 posts during the 2012-2013 biennium. That will mean an overall reduction of more than one third of the authorized 2010-2011 levels. A fair and transparent decision-making process concerning staff retention during the downsizing process puts additional strain on programme managers, who are thus required to perform retention exercises in addition to their regular workload. Moreover, their workload has already increased due to restructuring plans, which require all retained staff to perform an increasing range of functions.

We must express our gratitude to the Department of Management, especially the Office of the Controller and the Office of Human Resources Management, which continue to provide the Tribunal with support to explore and adopt additional measures and a common strategy to address the challenges of downsizing and separation of staff. That includes the implementation of the previously planned establishment of the outplacement office to assist Tribunal staff who have applied for various positions within the United Nations system.

I now turn to the issue of relocating persons who have been acquitted by the Tribunal. Both of my predecessors in Office have brought to the Council's attention the persistent problem of finding countries to receive acquitted persons. With the near completion of all trial activities, I see it as a cornerstone of my presidency to enhance my role in those efforts. In that regard, I will be increasingly applying my energies to persuading Member States to assist with relocation. I

have already begun my work in that regard by lobbying for our acquitted persons. I continue to do so today by calling upon all members of the Council to do their part in helping to ensure that we uphold the fundamental right of freedom to live one's life after being acquitted by an international tribunal.

I will now provide the Council with an update on the role that the ICTR is playing in the preparations for the Arusha branch of the International Residual Mechanism for Criminal Tribunals. The Arusha branch of the Mechanism will open its doors in less than one month. From 1 July, many judicial and prosecutorial functions will begin to be officially handed over to the Mechanism, along with responsibilities for the Tribunal's archives, the protection of witnesses and numerous other functions currently handled by the Tribunal.

I am very pleased with the status of efforts to ensure a seamless transition. I would like to thank the President, the Registrar and the Prosecutor of the Residual Mechanism for their tireless work in that regard. It has been, and will continue to be, my honour and privilege to do everything in my power to assist them in that endeavour.

I would also like to express my deep gratitude to the ICTR Registrar for all that he and his staff have done to assist with making practical arrangements for the coordinated provision of administrative and other services to the Mechanism, in line with resolution 1666 (2010). Since January, the ICTR has been working on the provision of a fully functional office space for the Mechanism within the Tribunal's current premises. The Tribunal has also supported the Mechanism in staff recruitment and financial and budgetary matters and assisted the Mechanism in establishing its relations with the host country. The ICTR Registry continues to share information and know-how in the areas of witness support and protection and the enforcement of sentences, in order to facilitate the smooth transfer of those functions to the Mechanism.

Efforts to prepare the Tribunal's archives and records for transfer to the Mechanism are well under way, and coordinated efforts will increasingly continue in the coming months. Wherever possible, we have harmonized our draft retention schedules with those of the ICTY and we have finalized guidelines on the appraisal and disposal of records and the preparation of records for transfer to the archives.

The Tribunals have finalized their coordinated efforts and have submitted a draft Secretary-General's bulletin on information sensitivity, classification, handling and access of the records of the Tribunals and the Mechanism. We look forward to the finalization and release of that important document.

As the remaining days of the ICTR become fewer and the Residual Mechanism begins to take shape, we will continue to ensure that knowledge gained and lessons learned are put to good use, both for creating the institution charged with continuing the residual functions of the Tribunal and for sharing best practices for the closure of international legal institutions. Moreover, our efforts at capacity-building and education for the region will remain strong, so that the Tribunal's impact will not only be one of challenging impunity, but also of helping to improve the means for dispensing justice for an entire region.

**The President (spoke in Chinese):** I thank Judge Joensen for his briefing.

I now give the floor to Mr. Brammertz.

**Mr. Brammertz:** I would like to thank you, Mr. President, for this opportunity to address the Security Council on the progress towards the completion of our mandate.

A series of trials at the International Criminal Tribunal for the former Yugoslavia (ICTY) is now approaching completion. By October, when the *Hadžić* trial will begin, only three cases will remain at the trial-evidence presentation stage. At the same time, we are working diligently to prepare for the intense appellate caseload anticipated. Five trial judgements, involving 14 defendants, are expected by the end of this year.

In this reporting period, further progress has been reached in two of our most significant cases, namely, *Mladić* and *Karadžić*. The *Mladić* trial commenced on 16 May with the Prosecution's opening statement. That long-awaited development took place less than one year from the date of Mladić's arrest. After Mladić's 16-year run from justice, the start of his trial was a significant day for the Tribunal and for the many victims of the alleged crimes.

In *Karadžić*, the Prosecution completed its evidence presentation in just under the allocated 300 hours. The Prosecution tendered more than 6,000 exhibits, reflecting the magnitude of a case spanning crimes

committed during the 44-month siege of Sarajevo, the July 1995 atrocities in Srebrenica, crimes across 19 municipalities in Bosnia and Herzegovina and the taking of United Nations personnel hostage. Coordinating that volume of evidence, ensuring a seamless flow of witnesses and keeping to the strict deadlines imposed by the Trial Chamber was an onerous task. Hearings will be held in June for the Trial Chamber to determine whether Karadžić has a case to answer. If so, Karadžić will begin presenting his case in October, allowing him a fair time period to finalize preparations for his defence case.

As we approach the completion of our mandate, it is increasingly important to use our resources flexibly. We have overcome a period without regular budget funds for the *Mladić* and *Hadžić* cases, unprecedented demands on our document search and review capabilities for defence disclosure purposes, and high rates of staff departures at critical times. The attrition of staff that had been forecast has become a reality, and there is no mechanism in place for reversing the problem. We cannot expect our staff to remain without appropriate acknowledgement of their essential role in the Tribunal's work. Staff with knowledge of ICTY cases and relevant professional skills will be needed beyond 2014, through the completion of the last ICTY appeals before the Residual Mechanism. Strategies must be put in place to promote their continued availability.

The day-to-day cooperation provided by States of the former Yugoslavia to the Office of the Prosecutor fully meets expectations. With no more ICTY fugitives, we can now largely focus on routine requests concerning documents and witnesses in ongoing cases. Given our busy case schedule in the coming months, we will continue to rely on prompt and effective responses to our requests from Croatia, Serbia, and Bosnia and Herzegovina. We look forward to the continuation of our productive working relationships with regional counterparts in the next reporting period.

There are two exceptions to the generally satisfactory level of cooperation with States of the former Yugoslavia, which are impacting on Tribunal processes and on its legacy. First, we remain concerned by Serbia's lack of progress towards investigating and prosecuting individuals who assisted ICTY fugitives while at large. We raised that issue repeatedly over the past few years, but we see little evidence of action. We expect answers to our questions as to how fugitives like Karadžić and Mladić were able to evade justice for so many years, and whether State officials were involved

in aiding them. During my visit to Belgrade on 22 May, the Serbian prosecutor for war crimes committed to conducting more in-depth investigations into the fugitive networks in the coming months. We await the results as a matter of priority.

The second problematic area in terms of cooperation with my Office is Bosnia and Herzegovina's slow progress in processing investigative materials transferred as part of our completion strategy. Nine of the 13 files transferred by my Office to the Office of the Prosecutor of Bosnia and Herzegovina are still pending, and we have not seen concrete evidence of progress since 2008. Bosnia and Herzegovina must take steps to resolve that situation.

The successful completion of the ICTY mandate depends upon a successful transition from our work to national war crimes prosecutions in the countries of the former Yugoslavia. We have adopted strategies for channelling our expertise in Balkans war crimes prosecutions to national authorities. We have integrated into our Office liaison prosecutors from Serbia, Croatia, and Bosnia and Herzegovina, who serve as an interface between international and national justice. We remain grateful to the European Union for its continued financial support for those programmes.

In 2011 alone, liaison prosecutors accessed more than 150,000 pages from our evidence collection for use in national proceedings. Regional requests for assistance are also growing in number. We expect that trend to continue beyond the closure of the ICTY. The Residual Mechanism will need strategies to facilitate those requests. We are working with our prosecution counterparts at the International Criminal Tribunal for Rwanda to put effective Residual Mechanism structures in place for responding to requests from national authorities.

Even so, we see serious problems in the implementation of national war crimes strategies, particularly in Bosnia and Herzegovina, where thousands of serious crimes still require follow-up. Unless it is made a top priority and more resources are allocated, the national war crimes strategy in Bosnia and Herzegovina will fail.

The successful implementation of national war crimes strategies also depends on greater regional cooperation, particularly between Serbia and Bosnia and Herzegovina. The proposed war crimes cooperation protocol between prosecution offices in those two

countries has still not been signed, almost one year after the initial target date for signature. During my meetings in Sarajevo in May, I received no satisfactory explanation for the delay. Political support from all sides in Bosnia and Herzegovina is needed to resolve the problem.

Finally, I want to say that recent comments made by the newly elected President of Serbia, who denied that genocide occurred in Srebrenica in July 1995, are not acceptable. His statements contravene the legal and factual findings of the ICTY and the International Court of Justice. Such rhetoric is a backwards step, aggravates the victims' suffering and jeopardizes the fragile process of reconciliation in the former Yugoslavia.

**The President** (*spoke in Chinese*): I thank Prosecutor Brammertz for his briefing.

I now give the floor to Mr. Jallow.

**Mr. Jallow**: The implementation of the International Criminal Tribunal for Rwanda (ICTR) completion strategy has gained significant momentum in the past six months. The evidentiary phase of the cases of all the current detainees have been concluded, pending two judgements to be delivered in the course of this year.

My Office has also concluded the updating of the case files of all fugitives, in respect of both pleadings and evidence. We have also concluded the rule 71 bis evidence preservation proceedings in respect of two of the three cases concerned, that is, *Kabuga* and *Mpiranya*, and are now scheduled to conclude in respect of the third case — *Bizimana* — by the end of this month. That exercise will greatly facilitate any trial work that will be undertaken by the Residual Mechanism.

Litigation over the referral of cases has been a significant aspect of the work of my Office during the same period. We were successful in obtaining the referral of five cases of indictees — two of them detainees and the rest fugitives — to Rwanda for trial under rule 11 bis. The decisions on two of those cases or applications are now pending, and I am planning to file one more application — which would be the last one — shortly. I also hope that by the end of 2012 all the cases of the indictees that were earmarked for referral to national jurisdictions will have been transferred to Rwanda, leaving only the cases of the top three fugitives, that is, *Kabuga*, *Mpiranya* and *Bizimana*, to be taken up; those have been reserved for trial by the Residual Mechanism.

The success of the referral strategy to date has been largely due to the commitment on the part of the

Government of Rwanda, with the support of the ICTR and the development partners, to undertake extensive law reform and capacity-building measures designed to ensure a fair and effective trial within the Rwandan legal system. I would like to commend the Government of Rwanda for its cooperation in that respect and the Governments of Canada, the United States and the European Union for their support in the implementation of those measures, whose purpose is to strengthen the Rwandan legal system.

The referral strategy has not only brought dividends to the Rwandan legal system; it has also made timely and proper completion of the ICTR mandate a probability. Equally important is the fact that the referral decisions of the ICTR have facilitated the deportation or extradition to Rwanda of suspected génocidaires from national jurisdictions where prosecution or extradition has hitherto been beset with technical difficulties. In that way, the gaps in the struggle against impunity have been closed.

The cases of *Bucyibaruta* and *Munyeshyaka*, referred by the ICTR to France for prosecution, continue to progress before the investigating judges in that jurisdiction. The prosecution and management of appeals have also been of paramount importance, as the workload of the Office of the Prosecutor for the biennium increased substantially. Following the delivery of judgement in one multi-accused trial and in one single-accused trial, namely, *Karemura et al.* and *Ndahimana*, respectively, my Office has been litigating 33 appeals from final judgements and the sentences returned in 12 cases. It has also been actively making advance preparations for six potential additional appeals. We anticipate that my Office will conclude its appellate workload, including any possible appeals from the two pending trial chamber judgements, well within the time frame of the completion strategy.

If the pending referral applications are also successful, the focus of my Office in respect of tracking will shift to the three top-level fugitives earmarked for trial by the Mechanism. However, we shall continue to provide support to Rwanda for the tracking and arrest of those fugitives whose cases have been referred to that jurisdiction. It should be recalled that all States have an obligation, pursuant to article 28 of the ICTR statute and the orders of the ICTR Referral and Appeals Chambers, to arrest such fugitives within their territories and transfer them to Rwanda or other jurisdictions as may be designated by the Chambers.

Tracking of the top three continues to be a challenge, with information at our disposal continuing to link Kabuga with Kenya, Mpiranya with Zimbabwe and Bizimana with various locations in the same sub-Saharan region. It is imperative, in the interests of peace and justice, that all States collaborate and support the ICTR in the arrest of those fugitives and that the international community, acting through the Security Council, bring its influence to bear on the States that are harbouring them. While those three cases are earmarked for trial by the Mechanism, it may become necessary, should the three continue to evade justice for a long time, to consider at some stage the option of referring their cases to the appropriate national jurisdiction for trial. Also, given that the fugitives are suspected to be in the East, Central and Southern African regions, my Office is actively encouraging regional inter-State institutions in the area to make the arrest of those fugitives a priority within their regional efforts to strengthen the maintenance of peace, security and justice.

In order to ensure a smooth and effective migration of our records and archives to the Mechanism, my Office is also currently working on the preparation and archiving of its holdings, both in Kigali and Arusha, and is consolidating the related archiving regimes and security frameworks. The servicing of foreign requests for assistance in investigations and trials has continued as an important function over the reporting period. In order to strengthen the efforts of Member States to bring to trial the Rwandan suspects appearing on the INTERPOL list, my Office has, during the reporting period, provided assistance to 10 Member States in respect of 44 such requests relating to the investigation or prosecution of genocide cases within the national jurisdictions. That assistance function will be taken over by the Office of the Prosecutor of the Residual Mechanism, Arusha Branch, from 1 July 2012.

With the appointment of all three principals of the Mechanism earlier this year, efforts to establish the Arusha Branch have moved quickly, thanks to the hard work of its Registrar and the cooperation of both the ICTY and the ICTR. Staff members at the respective offices, the Tribunals and their principals have devoted considerable time and energy to ensuring that the Mechanism takes off as planned and functions effectively from 1 July 2012. From that date, the Mechanism will, we are confident, commence operations, focusing on the tracking of fugitives, the provision of witness management and support, the servicing of foreign

requests for assistance, preparations for possible trials and the establishment of the Mechanism archives. Recruitment of the core staff of the Branch is actively under way. I expect to have a number of staff of the Office of the Prosecutor of the Mechanism on board to commence the operations by 1 July.

Meanwhile, with the declining workload of the ICTR, we have intensified the separation of staff whose services are no longer required. Within my Office, that has resulted in a significant scaling down of staffing in both Kigali and Arusha. It is no doubt a challenging process, but one that is necessary given the impending closure of the ICTR. We remain indebted to the staff members, who have worked hard and over many years to make the commitment of the United Nations and the mandate of the ICTR to bring justice and peace to Rwanda a reality, not only for the people of Rwanda but for the rest of the world.

Finally, I would like to thank the Security Council and its members, as well as His Excellency Secretary-General Ban Ki-moon, for my appointment as Prosecutor of the International Residual Mechanism for a term of four years. I shall do my utmost to effectively implement the letter and the spirit of resolution 1966 (2010) and the statute of the International Residual Mechanism for Criminal Tribunals.

**The President (spoke in Chinese):** I thank Mr. Jallow for his briefing.

I shall now give the floor to members of the Security Council. I request that Council members limit their statements to no more than five minutes in order to enable the Council to carry out its work expeditiously.

**Mr. Rosenthal (Guatemala) (spoke in Spanish):** My delegation would like to thank the Presidents and Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their briefings with regard to the completion strategies of their respective Tribunals. Their extensive briefings today together with their reports (sr S/2012/354 and S/2012/349) reflect the tireless efforts undertaken by both Tribunals to contribute to the global objective of fighting impunity for the crimes considered most heinous by the international community.

In particular, we would like to welcome Judge Meron and Prosecutor Jallow, who are here in their dual capacities, as they have spoken on behalf of both

the International Criminal Tribunals where they have served and the International Residual Mechanism. We congratulate Judge Joensen on his election as President of the International Criminal Tribunal for Rwanda. We wish all of them every success in their work.

Nineteen years after the establishment of the International Tribunal for the Former Yugoslavia, the first international criminal tribunal since Nuremberg and Tokyo, and the first established by the United Nations, we are pleased that no indictee has escaped the Tribunal's justice. We also welcome the fact that this year will see the trials of the last remaining fugitives from the Tribunal, which is a success not only for the Tribunal but for international criminal justice in general.

With regard to the International Criminal Tribunal for Rwanda, we are pleased that the trials are being held on schedule. We are concerned, however, by the fact that nine people are still fugitives from justice. The Rwanda Tribunal can carry out its work successfully only if it receives effective cooperation from every State. We call on all States, especially those of the Great Lakes region, to step up their cooperation with the Tribunal and give it all necessary assistance in apprehending and handing over the remaining fugitives.

We acknowledge the considerable progress the Tribunals have made in fulfilling their mandates. We commend the fact that both Tribunals continue to take every possible step to complete their proceedings quickly while fully respecting and safeguarding due process. On the one hand, we congratulate them on their commitment to implementing their completion strategy in spite of their large workload. On the other hand, however, we are concerned about reports from both Tribunals on their difficulties in retaining staff, which is one of the chief obstacles to the timely implementation of the strategy. We note that some measures have been taken to deal with that, as indicated in paragraph 10 of annex I of the report of the Tribunal for the Former Yugoslavia (S/2012/354). We hope that such efforts will continue in order to reverse the negative trend that the Tribunals have suffered in the form of the large number of staff members who have left in search of more stable jobs, as well as to enable both Tribunals to fulfil their mandates on time.

It is an honour for Guatemala to chair the Informal Working Group on the International Tribunals. For our part, at this critical stage, we will continue to offer the Tribunals and the Residual Mechanism our full support.

As the Tribunals' mandates draw to a close, the Residual Mechanism will have a fundamental role to play in ensuring that their legacy endures. We note the progress made with the Residual Mechanism, which the Council established under resolution 1966 (2010) and which will begin functioning on 1 July. We are pleased with the process under way for implementing the Residual Mechanism and welcome the fact that both Tribunals have been working together to ensure a gradual transition to the Mechanism.

Finally, we believe that the Tribunals have had an important role in strengthening the rule of law and promoting long-term reconciliation and stability, and not merely in the Balkans and Rwanda. Their jurisprudence has had far-reaching effects and has been a source of inspiration for national and international judicial bodies everywhere, and particularly in the establishment of the International Criminal Court. We hope that more steps can be taken to preserve their legacies and to help pass on the knowledge and experience they have gained to other jurisdictions.

**Mr. Kumar (India):** Let me at the outset congratulate Judge Meron on his assumption of the presidency of the Residual Mechanism, in addition to his continuing presidency of the International Criminal Tribunal for the Former Yugoslavia (ICTY). I would also like to congratulate Judge Joensen on assuming the presidency of the International Criminal Tribunal for Rwanda (ICTR). We have listened carefully to their presentations and assessments of the work of the Tribunals. We also appreciate the two Prosecutors' briefings.

India welcomes the progress made by the Tribunals in expediting their work. We are reassured by the opinion of Judges Meron and Joensen that the preparations for implementing the Residual Mechanism are on track, and we have noted that the Arusha Branch of the Residual Mechanism will begin its work on 1 July.

We are happy to see that the Council's recommendations, including those on hiring and retaining qualified interns, made during the previous reporting period (see S/PV.6678), have brought tangible results and helped the Tribunals progress faster towards implementing a completion strategy and launching the Residual Mechanism.

We appreciate the fact that Judge Meron has undertaken a variety of reforms to improve the functioning of various sections of the Tribunal. As a result, the trials of Mladić, Hadžić and Karadžić have

gone forward many months ahead of their expected schedules. Similarly, appeals in some cases have been advanced significantly ahead of schedule. This is a very positive sign and we congratulate Judge Meron on a welcome development.

We are happy to note that the ICTR has completed work at the trial level on 83 of 93 accused, while nine remain at large. All the trials are on track and will be completed by the end of the year.

We commend the efforts of the Prosecutors to undertake outreach initiatives, including training aimed at strengthening the capacity of national systems to handle referred cases effectively, thereby preserving the Tribunals' legacy. We also note with satisfaction the progress made in implementing the Residual Mechanism. Any functional, operational or institutional issue that may arise in the implementation of the completion strategy or the Residual Mechanism should be addressed by the Council, in consultation with its Informal Working Group on International Tribunals.

It is critical that the Tribunals finish their work on time. We have listened very carefully to the concerns raised by the Presidents of the Tribunals about their ability to keep up with their work while adhering to the expected timelines until the close of business. The Judges have pointed out that trials and appeals continue to be affected by staffing shortages and the loss of highly efficient staff members. We share their concerns, especially on the need for retaining adequate and experienced staff. Careful consideration should be given to the Judges' suggestions on how to address those challenges. This is a practical issue that requires pragmatic and innovative solutions. We stand ready to work with other members of the Council to solve the problem.

The Judges have also raised the issue of relocation of those people who have been acquitted or have already served their sentences. Some of them have been living in safe houses in Arusha for the last five years. This is an important humanitarian issue and needs careful consideration.

We welcome the cooperation extended by all States concerned with the Tribunals, which is vital to ensure fulfilment of the Tribunals' mandates as well as their successful implementation of their completion strategy. We appreciate Serbia's sustained efforts in that regard and request other States to continue to extend effective cooperation, so that the remaining fugitives can be

located soon and surrendered to the Tribunals so as to end impunity.

In conclusion, we believe that the two Tribunals have admirably implemented their mandates. We believe that the support of the Security Council is crucial at this critical juncture in the life of the Tribunals. At the same time, we urge both Tribunals to take all necessary measures to keep the trial and appeal schedules on track. That will pave the way for successful trials of the remaining accused and a smooth implementation of an efficient Residual Mechanism.

**Mr. Berger (Germany):** I would like to express Germany's full support for the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) and for their invaluable contribution to the fight against impunity for serious international crimes. We thank Presidents Theodor Meron and Vagn Joensen, as well as the ICTY and ICTR Prosecutors, Mr. Brammertz and Mr. Jallow, for their most recent assessments and for the efforts undertaken to ensure a smooth transition to the International Residual Mechanism, as foreseen by resolution 1966 (2010). I also congratulate Judge Meron and Mr. Jallow for their respective appointments as President and Prosecutor of the Residual Mechanism.

All 161 individuals indicted before the ICTY have been apprehended, and we very much welcome the anticipated conclusion of 32 of the remaining 35 trials in 2012. At the same time, we recognize the reasons that require the *Hadžić*, *Mladić* and *Karadžić* trials to continue beyond 2012, not least so that the accused can make fullest use of their rights to defend themselves.

Germany was extremely satisfied to see the commencement of the *Mladić* trial on 16 May 2012. Among the multiple counts of genocide, crimes against humanity and violations of the laws or customs of war of which both Mr. Karadžić and Mr. Mladić stand accused, the 1995 massacre in Srebrenica will stand out forever, both as a reminder of all the atrocities committed and as a warning for future generations. Let me say that I share the assessment made by the Prosecutor that the denial of that genocide is not acceptable. We are therefore grateful to the more than 300 witnesses in the case against Karadžić and to the 387 witnesses the prosecution intends to call in the *Mladić* case. Their testimonies, which often add further hardship to the losses and sufferings already endured, are indispensable in fighting impunity, both past and present.

Cooperation by States continues to be of crucial importance for the work of the Tribunals and for a successful transition from the Tribunals to national war crimes prosecutions. With regard to the ICTY, we note with appreciation the prompt and adequate responses from Serbia, Bosnia and Herzegovina and Croatia to the Tribunal's requests for assistance, and we call upon them to maintain that approach in the future. At the same time, we note with concern the Prosecutor's appraisal that Serbia's stated commitment to investigate the networks that allowed some indicted fugitives to evade justice for many years has produced very few results. We are similarly concerned about the delays encountered in the follow-up expected with regard to investigative material transferred by the Prosecutor to Bosnia and Herzegovina and by delays in war crimes prosecutions in Bosnia and Herzegovina. We would also like to call upon the relevant authorities, notably in Bosnia and Herzegovina, to overcome the remaining obstacles so that the proposed protocol on the exchange of evidence and information in war crimes between Bosnia and Herzegovina and Serbia can be signed.

Turning to the ICTR, we welcome the progress made towards completing all of the trial work foreseen in the completion strategy report of 2011. Another positive development is the first-ever transfer of an accused, Jean Bosco Uwinkindi, to the Republic of Rwanda for trial and the setting up of an adequate monitoring mechanism for such cases. We commend Rwanda for having strengthened its national legal system so as to allow the adjudication of cases transferred from the ICTR. Germany is confident that the newly launched video-link facility at the Rwandan Supreme Court in Kigali will contribute to the efficient and effective delivery of justice.

It remains a matter of concern, however, that nine accused and internationally sought persons still remain at large, including the three highest ranking ones. We understand that in a number of those cases referral decisions have either been taken or are expected to be taken. The apprehension of those fugitives, who have been charged with genocide or complicity in genocide, must nonetheless be a priority. Unfortunately, no progress has been made in that matter since we last discussed the issue in November. We therefore once again call upon the international community, and in particular concerned States in the region, to make sure that all possible efforts are made in order to bring those persons to justice.

As both the ICTY and ICTR are approaching the transition to the International Residual Mechanism, we note that preparations for a smooth handover are under way, and we recognize the challenges and practical difficulties encountered within the process. Some of those challenges are of a particular nature, such as the need to retain qualified staff to enable the Tribunals to fulfil their functions until the last day. We appreciate the measures taken to alleviate the situation, and we are willing to look into practical proposals and steps on how to address the issue.

We also look forward to the adoption of the Residual Mechanism's rules of procedure and evidence by the judges, including a provision that ensures confidentiality for information provided by the International Committee of the Red Cross. Germany also looks forward to extending its unwavering support for the ICTY and ICTR to the Residual Mechanism as well.

**Mr. McKell (United Kingdom):** I would like to begin by reiterating the United Kingdom's continued support for both the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR). Their work is essential in helping to tackle impunity and deliver justice to the countless victims of atrocities in the former Yugoslavia and Rwanda.

I would also like to express my thanks to President Meron and President Joensen, as well as to Prosecutor Brammertz and Prosecutor Jallow. The reports (see S/2012/349 and S/2012/354) and briefings we have received were, once again, of the highest standard. I congratulate President Meron and Prosecutor Jallow on their appointments to the Residual Mechanism. Their knowledge and expertise will be a tremendous asset as it enters a crucial phase of its mandate, and will help ensure a smooth and effective transition.

In respect of the ICTY, we note with appreciation that the Serbian authorities have fully met the Tribunal's expectations in terms of providing trial-related assistance. Such cooperation is essential. On the other hand, there is no information on the various support networks that allowed Mladić and Hadžić to evade capture for so long. Investigating those networks is important, and we agree with the report (see S/2012/354) that the Serbian authorities must intensify their efforts in that regard.

We welcome the positive trial assistance afforded by Croatia and Bosnia and Herzegovina. With regard to

Croatia, we are aware that the *Gotovina* appeal is under way and that a judgement is expected by the end of the year. We hope that all sides will respect the process and any verdict that is reached. The capture of Radovan Stanković in January by the authorities of Bosnia and Herzegovina was welcome news. We do, however, share the concern expressed in the report about delays in processing domestic war crimes cases in Bosnia and Herzegovina. We encourage the authorities to address those delays as a matter of urgency.

The start of the *Mladić* trial represents an important milestone for the Tribunal, leaving only one trial yet to begin, namely, that of *Hadžić*. The *Mladić* trial is a powerful reminder that the age of impunity is over and that those responsible for atrocities, like those that took place in Houla in Syria, will be held accountable.

It is disappointing that judgement in the *Karadžić* trial is now expected to be delivered five months later than anticipated. While we understand the reasons for the delay, we urge the Tribunal to do what it can to prevent any further delays. The effective and timely completion of trials will be increasingly important over the coming months as the transition to the Residual Mechanism nears.

We recognize that staff retention continues to be an issue for both Tribunals. We are mindful of the additional pressures that staff shortages can place on existing members of staff. We very much welcome the measures that have been undertaken to address the issue, and we encourage the Tribunals to continue to prioritize their resources as effectively as possible.

Moving on to the ICTR, we remain concerned that nine fugitives are still at large. Apprehending those fugitives is a priority, as justice cannot fully be done until they are apprehended. We encourage all States Members of the United Nations, especially Kenya and Zimbabwe, to provide the ICTR with their full cooperation in order to bring those fugitives to justice.

While it is unfortunate that the *Ngirabatware* trial will not be completed before the commencement of the Residual Mechanism, we are pleased to see that it is on course to be completed soon, with the judgement to be delivered by the end of the year. We recognize that the ICTR has been working closely with the ICTY to ensure a smooth transfer of activities to the Residual Mechanism. That is essential, and we encourage both Tribunals to continue that close cooperation in the coming months.

**Mr. Tladi (South Africa):** Allow me to congratulate Mr. Hassan Boubacar Jallow, President Theodor Meron and Mr. John Hocking on their respective appointments as Prosecutor, President and Registrar of the Residual Mechanism. I also wish to thank Judge Vagn Joensen and Mr. Jallow, President and Prosecutor, respectively, of the International Criminal Tribunal for Rwanda (ICTR), and Judge Meron and Mr. Serge Brammertz, President and Prosecutor, respectively, of the International Criminal Tribunal for the former Yugoslavia (ICTY), for their reports and presentations this morning.

As we approach the entry into force of the statute of the Residual Mechanism on 1 July, it is important that both the ICTY and the ICTR strengthen their efforts towards finalizing their caseloads and ensuring compliance with the completion strategy, as provided for in the relevant resolutions of the Security Council. As has been noted, it is important, however, to ensure that the need to complete the cases speedily does not compromise due process standards.

In that respect, I wish to express my delegation's appreciation of the efforts made by both Tribunals, amid immense challenges, to complete the cases on their current dockets, while ensuring the maintenance of due process standards. We have already observed how the ICTY experience in referring cases to national jurisdictions has contributed to alleviating some of the caseload pressures. We firmly believe that referral to domestic jurisdictions not only helps with easing the caseload of the international Tribunals, and, in that way, contributes to compliance with the completion strategy, but also is important for building the capacity of national jurisdictions in dealing with such crimes. It is also important for ensuring that, where possible, justice is done close to the victims of the crimes.

In our last statement (see S/PV.6678), we encouraged the ICTR to consider making more referrals to domestic courts with jurisdiction in the cases relevant to Rwanda, in particular. We are pleased that several referrals have already been made and that there are currently applications pending for further referrals. We were also pleased to hear this morning that referral has become the focus of the ICTR. We continue to encourage the ICTR to consider whether even more referrals could be made.

While we continue to strongly support referrals to domestic courts with the necessary jurisdiction, the Tribunals should continue to monitor the handling of

such cases in order to ensure the proper administration of justice, including adherence to human rights and due process standards. We note with concern the challenges cited by the Prosecutor of the ICTY in connection with the functioning of the judiciary of Bosnia and Herzegovina. It is imperative that all involved join efforts to ensure the success of the referral system. The success of referrals to domestic courts will ensure the lasting legacy of both the ICTY and the ICTR.

A serious challenge facing the ICTR is, of course, the apprehension of the remaining fugitives, as has been noted several times this morning. We call on relevant States Members of the United Nations to cooperate as far as possible with the ICTR in the apprehension of fugitives, as required by the relevant resolutions of the Security Council, as well as the Statute of the ICTR.

Both Tribunals are facing difficulties with respect to staff retention. As they wind down their operations, it becomes more difficult to retain staff. We, as a delegation, stand ready to consider, within the financial constraints of the Organization, of course, innovative solutions that may be suggested by the ICTY and the ICTR to deal with that challenge.

**Mr. Ahmad (Pakistan):** I would like to join other members of the Council in thanking our briefers this morning, Judge Meron, President of the International Tribunal for the Former Yugoslavia (ICTY), Judge Joensen, President of the International Criminal Tribunal for Rwanda (ICTR), and the two Prosecutors, Mr. Brammertz and Mr. Jallow, for their comprehensive statements. Let me at the outset reiterate Pakistan's complete support for the important work of the two Tribunals.

We note the progress in the completion strategies of the ICTR and the ICTY during the period covered by the latest reports (see S/2012/354 and S/2012/349). We note that, during the past six months, the Tribunals have continued to engage in trial and appeals proceedings, in rendering judgements and in referring cases to domestic jurisdictions. We appreciate that, during the reporting period, the Tribunals continued to contribute to procedural and evidentiary international criminal law in a professional manner.

We also note the efforts made by the Tribunals with regard to their work to ensure that the International Residual Mechanism for Criminal Tribunals can commence its activities on 1 July. We appreciate the role of the Tribunals in the preparation of a joint budget

and the work on the rules of procedure of the Residual Mechanism.

We recognize the difficulties in the assignment of work to judges, in staff management and in the process of winding down the work of the two Tribunals. The recruitment of employees and the retention of staff with an institutional memory of cases continue to pose major challenges to the work of the Tribunals in the completion process. We support the idea of providing sufficient resources to the Tribunals in order to make it possible for them to complete their work in a timely manner. As the lack of experienced staff could cause additional delays in the completion of the Tribunals' work, it would be logical to consider innovative strategies, such as retention incentives, as appropriate, on a case-by-case basis.

While there are no outstanding fugitives under the jurisdiction of the ICTY following the arrest of Mladić and Hadžić in 2011, it is a matter of concern that there are nine persons indicted by the ICTR who still remain at large. We hope that, with the cooperation and efforts of relevant Member States, the ICTR will be able to arrest and hold accountable the remaining fugitives. Their arrest would go a long way towards meeting the completion strategy targets and to reducing the burden of the Residual Mechanism.

The cooperation of Member States would also be helpful in the referral of cases to national jurisdictions and in the transfer of individuals who have been either convicted or acquitted, or who have served their sentences, to relevant countries where their family members are located. We note that the ICTR President and Registrar have been making efforts to find host States for some acquitted persons who are under the Tribunal's protection. The issue of the relocation of acquitted persons in particular has assumed urgency in view of the imminent closure of the Tribunal. We call upon all States that are in a position to do so to show political will and to consider positively the Tribunals' request for more support and cooperation.

In conclusion, I would like to note that, in our view, it is essential to preserve the legacy of the Tribunals on account of their contribution to the fields of international humanitarian law and legal doctrine. The decisions of the Tribunals have led to the jurisprudence that will influence the fight against impunity and the future of global justice. In that context, we note with appreciation that the ICTR Legal Library has compiled

a special bibliography containing all relevant literature on the work of the Tribunal. The conference on the global legacy of the ICTY in November 2011, which was convened to study the impact of the Tribunal's work on international criminal procedure and international humanitarian law, was also a step in the right direction.

**Mr. Madureira (Portugal):** I thank the Presidents and Prosecutors of the Tribunals for their very useful and comprehensive briefings here today. Allow me also a special word to congratulate Judge Joensen for his recent election as President of the International Criminal Tribunal for Rwanda (ICTR). I also wish to extend our congratulations, through the President of the International Residual Mechanism for Criminal Tribunals, Judge Meron, to the elected judges of the Residual Mechanism who were recently sworn in.

We wish to commend, first of all, the Presidents of the Tribunals and the Prosecutors for their efforts in keeping the judicial work on track, in line with the estimates of the completion strategy. Our appreciation goes also to the judges and staff of the Tribunals for their hard work to conclude the judicial activity of the Tribunals within the time frame established by the Council in resolution 1966 (2010).

The reports (see S/2012/354 and S/2012/349) of the Tribunals and the briefings today in that regard reflect the concrete progress made so far. They highlight the fact that practical measures — such as using ad litem judges for the trial of contempt cases, which was recently put in practice — can produce considerable results in terms of speeding up the judicial activity concerning the principal cases. We therefore encourage the Presidents of the Tribunals to continue to actively identify possible ways of further promoting the better use of resources with a view to improving the management of the time devoted to particular cases, while naturally keeping fully with the required principles of justice.

We understand that, as we approach the time when the Tribunals will close their doors, such management becomes more difficult. Indeed, both Tribunals continue to share a grave concern owing to staff attrition and recruitment difficulties. Creative, realistic and cost-effective solutions to that issue need to be found and implemented as a matter of urgency. We note some positive developments in that regard — for instance, the waiver of the six-month rule for applications for professional posts, which has facilitated the contracting of new personnel. The particular nature of the Tribunals, which

struggle to abide by trial deadlines while maintaining the process of winding down all court activity, requires a distinct and more flexible interpretation of the United Nations general administrative norms. We therefore encourage flexibility on the part of the Secretariat, as well as creativity on the part of the Tribunals.

In short, Mr. President, we wish to recognize the Tribunals for their hard work in performing their invaluable role in ensuring accountability for the worst crimes, in the most professional way and under difficult circumstances. Both Tribunals have also made valuable contributions to the establishment of the Residual Mechanism, which we would like to recognize. They have contributed to the ongoing drafting process of the Mechanism's rules of procedure and evidence, the preparation of its budget, which was recently adopted, and other necessary activities. I wish to commend the Tribunals and the Office of Legal Affairs for their contribution to the rather complex process that will enable the Residual Mechanism to start performing its functions fully from day one, that is, from 1 July.

At this stage we would like to highlight three aspects that continue to be of concern to us. First, we can never overstate the importance of cooperation with the Tribunals. While we welcome the fact that there are no outstanding fugitives on the list of the International Criminal Tribunal for the Former Yugoslavia (ICTY), as well as the generally satisfactory assessment of cooperation reported by the ICTY Prosecutor in his report (S/2012/354, annex I), despite some concerns, we wish to turn to the ICTR and highlight the need to locate and arrest the remaining fugitives being sought by the Tribunal. In that respect, we urge the continuation of efforts on the part of the States concerned to facilitate the arrest and transfer of those fugitives to that Tribunal and to allow justice to be fulfilled.

Secondly, as mentioned before, as we approach the end of the Tribunals' work, bearing in mind the projected number of convictions, we have to be prepared for the increasing number of requests addressed by the Tribunals to States to host convicted persons to serve their sentences and the need to find appropriate and prompt responses to such requests.

Finally, we need to encourage definitive solutions to address the singular situation of acquitted persons — referred to again by the President of ICTR. They remain still today under protective measures in safe houses in Arusha because they can neither safely return to their

communities nor find host countries willing or able to accept them. That is an unsustainable situation with human rights implications, and a prompt solution must be found to it.

In conclusion, Portugal wishes to congratulate the Presidents, Prosecutors and staff of the two Tribunals for their work. They have laid the groundwork for the future. They have helped to set up the Residual Mechanism and are assisting the countries of the respective regions, their judicial authorities and their civil societies to take over the vital task of fighting impunity for the gravest of crimes.

**Mrs. Le Fraper du Hellen (France)** (*spoke in French*): I would of course like to thank the Presidents and the Prosecutors of the International Residual Mechanism for Criminal Tribunals and the Tribunals for their reports (see S/2012/354 and S/2012/349).

With respect to the International Criminal Tribunal for Rwanda (ICTR), the President and the Prosecutor have described the considerable efforts that were made in recent months by the entire staff of the Tribunal to complete the trials under way. We thank them for that. We would specifically like to highlight two key points, namely, the preservation of evidence and the referral of cases to national courts. With regard to the preservation of evidence under rule 71 bis of the rules of procedure, we are extremely pleased to see that this will help to support the proceedings against the three fugitives — Félicien Kabuga, Augustin Bizimana and Protais Mpiranya — in the event that they are arrested one day.

With regard to the referral of cases to national jurisdictions, we believe that this is in fact an important element in the current transition. We thank the President and the Prosecutor of the Tribunal for having come to France in order to take stock, under French jurisdiction, of the cases of *Bucyibaruta* and *Munyeshyaka*. French authorities would like to assure the Tribunal that they are giving those two cases the full attention they require.

There are two concerns that remain, particularly in terms of cooperation. The Prosecutor just spoke of the issue of arresting fugitives. We note that he has reiterated a desire for increased cooperation from Kenya and Zimbabwe, respectively, in the cases of arresting Félicien Kabuga and Protais Mpiranya. Cooperation from all parties with the ICTR is obviously a requirement under Council resolutions. It would perhaps be important that the Council remind the various parties of that obligation.

The second key point with regard to assistance to the Tribunals is that of relocating persons acquitted by the Tribunals or those who have served their sentences after having been convicted. France is hosting several individuals at the request of the Tribunals, and we encourage — as the Tribunals and certain delegations here present have done — other States to consider hosting on their territory the persons concerned.

Lastly, on the issue of the ICTR, I wish to underscore that France will, of course, support the extension of the mandates of the judges and the President that has been submitted to us by Mr. Vagn Joensen.

France is fully aware of the challenges facing the Tribunals at this time. For example, we are asking the ICTY not only to move forward towards the Residual Mechanism but also to deal with very important cases such as *Mladić* and *Karadžić*. We wish to underscore that nothing should be done that could undermine the capacity of the ICTY to ensure that justice is done in such serious cases.

In terms of cooperation with the ICTY in particular, questions remain, now that we have heard Mr. Brammertz's report, as to the reasons for the very long period of time that elapsed prior to the arrests of Mr. Karadžić and Mr. Mladić. In addition, in general terms the low level of cooperation among the States of the region with respect to the prosecution of mid-level criminals is of concern. The members of the European Union believe that cooperation with the ICTY and regional cooperation continue to be important.

Lastly, I would also like to echo fully the comments made by Prosecutor Brammertz and recall here that the ICTY has held that the Srebrenica massacre was an instance of genocide, and that this decision of international criminal justice, as well as the duty of respect for the victims, is binding on us all.

In conclusion, I should like to thank Guatemala, in its capacity as Chair of the Informal Working Group on International Tribunals, the representatives of the Tribunals and the Office of Legal Affairs of the Secretariat for the efforts made to meet the transition timetable set out in resolution 1966 (2010) and ensure the smooth functioning of the Residual Mechanism.

**Mr. Bouchaara (Morocco)** (*spoke in French*): Allow me at the outset to thank the Presidents and Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for

Rwanda (ICTR) for their thorough briefings. We were pleased to take note of the efforts undertaken and the progress made by both Tribunals with regard to the implementation of their respective completion strategies, which are aimed at finalizing their work and preparing for a smooth and harmonious transition towards the International Residual Mechanism, which is to take over the residual functions of the criminal Tribunals.

We were also very pleased to learn that despite the challenges encountered, the Mechanism will begin operations on the date set out in resolution 1966 (2010). That will allow us to resolutely continue consideration of the conditions necessary to enable it to effectively carry out its mandate.

We welcome the measures adopted by both Tribunals, which, while ensuring due process, have made it possible to streamline procedures and introduce reforms aimed at accelerating the pace of their work. The Kingdom of Morocco also welcomes the fact that those measures have enabled the ICTY to begin certain trials earlier than had been anticipated and to limit the impact of challenges related to translation and lack of staffing on the trial schedule.

As concerns the ICTR, the efforts undertaken have led to the announcement of the completion of trial proceedings prior to the end of 2012 and to encouraging predictions indicating that all of the rulings will be handed down during 2014. That should induce us to maintain the same level of mobilization in order to explore together ways and means of dealing with the various difficulties related to the retention of skilled personnel.

We hope that the relevant United Nations bodies will give favourable consideration to additional measures aimed at overcoming the difficulties related to the downsizing process and at the completion of the deliberations of both courts. The ongoing dialogue between the two Tribunals, the Office of Legal Affairs and the Council's Informal Working Group on International Tribunals, which is chaired with skill and competence by Guatemala, will, of course, remain the best response to the potential practical or institutional difficulties relating to the upcoming launch of the Residual Mechanism.

In that context, we deem it necessary to underscore the importance of cooperation on the part of Member States and regional and subregional organizations with both Tribunals, in accordance with their respective

statutes and, subsequently, with the Residual Mechanism. Such cooperation should involve not only greater efforts to arrest those fugitives still sought by the ICTR but also an acceleration in communications and requests for judiciary assistance from both Tribunals, as well as support for efforts to relocate persons who have been acquitted or served their sentences.

The referral of cases to national courts has considerably facilitated the completion of the work of both Tribunals and a smooth transition towards the Residual Mechanism. The transfer to national jurisdictions of cases involving intermediate or lower-rank accused by the ICTY and the transfer of five cases by the ICTR to Rwandan courts will contribute to the consolidation of the principle of complementarity and to the strengthening of the national judicial institutions of the relevant countries.

The activities undertaken to raise the awareness of younger generations with respect to the lessons to be learned from the crimes prosecuted by both Tribunals should continue. The contribution of the International Criminal Tribunals to international criminal justice must be recognized and preserved. The protection of the legacy of the Tribunals has both a legal and a moral value. In that context, it is important to continue to ensure the accessibility of information relative to both Tribunals, their mandates and their contributions to fighting impunity and to strengthening the international judicial system.

**Mr. Quintana (Colombia) (spoke in Spanish):** We would like to thank the Presidents and Prosecutors of the International Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their briefings, and we congratulate them on the efforts that both Tribunals have made to implement the completion strategies adopted by the Council and ensure an expeditious transition to the Residual Mechanism. Our thanks also go to the delegation of Guatemala, whose work in chairing the Informal Working Group on International Tribunals has considerably facilitated the progress that has been made in this area.

My delegation is convinced that both Tribunals have provided an invaluable service to the cause of international justice and the maintenance of international peace and security. We believe that in the past few months in particular both bodies have worked diligently to implement Council decisions relating to the

completion of their mandates. Of particular importance is the compendium of administrative measures adopted with a view to reducing the length of trials, which has meant that several of them have been able to either begin or conclude earlier than planned. We are therefore very close to meeting our common objective of concluding all Trial Chamber cases before the Tribunals before the end of this year and to deal with all possible appeals by the end of 2014.

In practical terms, we note that the Fifth Committee has approved the budget for the first biennium of the Residual Mechanism and that modest progress has been made with regard to ensuring the retention of Tribunal staff. In particular, we commend the Secretary-General for his willingness to facilitate the hiring of trainees or interns, who now have valuable experience in the workings of both Tribunals that otherwise could have been lost.

The Office of Legal Affairs also deserves commendation here, since it is the determination of their officials that has made it possible to have near-complete versions of the various legal instruments required for the functioning of the Residual Mechanism. That is the case with respect to the Rules of Procedure and Evidence, the Secretary-General's bulletin on the archives of the Tribunals and the Mechanism, and the headquarters agreements for the host countries of the two branches of the Mechanism, in Arusha and The Hague.

There are two aspects related to the Tribunal for Rwanda that my delegation believes we should consider. First, we are concerned by the situation of people who have been exonerated by the Tribunal and who are supposed to be relocated, because it has not been easy to find countries willing to welcome them on their territory. The President of the Tribunal has said that that is a persistent problem that he is going to make vigorous efforts to resolve. We believe that the Security Council could support President Joensen with respect to that matter by sending a clear signal that the fate of those individuals is a concern for all of us.

Secondly, in contrast with the Tribunal for the Former Yugoslavia, some of those accused by the Tribunal for Rwanda have yet to be captured even though there is relatively exact information on their whereabouts. We believe that, consistent with their clear intention to close that chapter in the history of hatred and violence in that region of Africa, the Council should reiterate its call for all States to cooperate effectively with the Tribunal and,

in particular, for those States responsible for ensuring the arrest of the fugitives and for handing them over to the Tribunal to fulfil their obligations under the resolutions according to which that body was established.

The International Criminal Tribunals for the Former Yugoslavia and Rwanda constitute the primary vehicle through which the Security Council has channelled the will of the international community to end impunity for atrocious crimes of international magnitude. We are pleased to observe that the various bodies of the United Nations are taking the necessary steps to guarantee the efficient and orderly conclusion of the mandates of the Tribunals and to ensure the appropriate functioning of the Residual Mechanism established by the Council. We will spare no effort to continue working towards that end.

**Mr. DeLaurentis** (United States of America): I would like to thank Tribunal Presidents Meron and Joensen, as well as Prosecutors Brammertz and Jallow, for their briefings today and their continued service. I congratulate President Joensen on his recent election as President of the International Criminal Tribunal for Rwanda (ICTR). We wish him success in his new role.

The United States commends the Tribunal Presidents, Prosecutors and Registrars for their dedication and extensive preparations in setting up the Residual Mechanism. We welcome the overall downsizing by both the ICTR and the International Criminal Tribunal for the Former Yugoslavia (ICTY) as trials end and as remaining functions are gradually transferred to the Residual Mechanism. We also appreciate efforts by the ICTY, the ICTR and the Residual Mechanism to share resources and to enact cost-saving managerial and administrative measures. Those include double-hatting staff members, sharing common administrative support services, embedding translators into legal support teams and using video-teleconferencing technology. We are aware of the challenges posed by high staff attrition, and are grateful to the judges and staff members who are performing multiple functions across multiple trials.

The Council must be flexible to ensure that both Tribunals are able to administer justice expeditiously yet fairly. When the Council adopted resolution 1966 (2010) and set 31 December 2014 as the requested date for the completion of all remaining work by the Tribunals, we did not have the benefit of knowing when indicted individuals would be arrested. Today, we are pleased that all ICTY fugitives have been apprehended,

including the re-apprehension, in January, of convicted war criminal Radovan Stanković. We recognize, however, that trial and appeal schedules will be difficult to accurately predict and that flexibility in assigning cases is important in that regard.

Turning to the ICTY, we welcome the reported cooperation of Serbia, Croatia and Bosnia and Herzegovina in providing access to documents, archives and witnesses in response to requests for assistance from the Office of the Prosecutor. We look forward to Serbia concluding and acting upon investigations into who was involved in, and responsible for, sheltering Ratko Mladić, Radovan Karadžić and other notorious ICTY fugitives in Serbia over the course of so many years. Such cooperation is essential to completing ongoing trials and appeals. As the nations of the Balkans make further progress towards European Union accession and Euro-Atlantic integration, their record of cooperation with the ICTY and with each other as well as their progress on domestic justice and accountability initiatives, will be critical.

At the same time, the United States deplores the statement made this week denying genocide in Srebrenica. Genocide in Srebrenica is not a subjective determination; it is a defined criminal act that the ICTY has confirmed in final and binding verdicts in multiple cases. It cannot be denied.

Turning to the ICTR, there are unfortunately still nine ICTR fugitives at large. We call on all States Members of the United Nations, particularly those in the Great Lakes region, to help apprehend them. The apprehension of the remaining ICTY fugitives demonstrates the international community's commitment to ending impunity for those who commit mass atrocities. Those who harbour fugitives obstruct the administration of justice, put themselves in danger and only delay the inevitable.

We take note of the recent transfers of cases from the ICTR to Rwanda and we welcome Rwanda's willingness to fairly adjudicate transferred cases. That is a positive development, since international tribunals such as the ICTR cannot last forever. Strengthening national legal and justice sectors will help to promote the long-term rule of law and stability in the region.

We applaud the ICTR's efforts to create a robust monitoring mechanism in cooperation with regional organizations to ensure the fairness of trials at the national level. Case transfers to competent national jurisdictions will help fulfil the ICTR's completion

strategy. We welcome the news that the ICTR is close to completing all trial work as projected in the November 2011 completion strategy. Indeed, the ICTR's vastly reduced judicial workload reflects the court's strong leadership and the dedication of its staff.

As the ICTY and ICTR draw to an end and prepare to transition remaining functions to the Residual Mechanism, they represent a strong legacy in the international fight against impunity for those who commit atrocities. The defendants convicted in tribunal proceedings to date have been tried and found guilty of some of the most heinous crimes known to humankind, including genocide, murder and rape, as crimes against humanity. Thanks to the hard work of the Tribunals, the world knows about those crimes, and perpetrators are being held accountable for their actions. In addition, there are now archives and public records that will be accessible for generations to come, bringing to light stories that would otherwise be lost or hidden in the shadows. That information is critical to combating the concerted efforts of those who seek to promote an alternative historical narrative at variance with judicially established fact. In addition to combating impunity, the Tribunals' contributions in the areas of local capacity-building and education will help foster long-term peace and reconciliation.

As President Obama has said, "Preventing mass atrocities and genocide is a core national security interest and a core moral responsibility of the United States of America." We are committed to working with the international community to do so. We can and we must improve our individual and collective efforts to protect populations from atrocities, including with measures to enhance early warning, prevention, response and accountability. We will continue to focus on concrete outcomes that make a difference on the ground and to help United Nations actors use planning and diplomacy to prevent atrocities, not just to respond to them.

**Mr. Afande (Togo) (spoke in French):** The Togolese delegation would like first of all to join other delegations in thanking Judge Meron, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY), and Judge Joensen, President of the International Criminal Tribunal for Rwanda (ICTR), as well as Prosecutors Serge Brammertz and Hassan Bubacar Jallow, for their briefings on the work of the two Tribunals. We also congratulate Judge Meron on his appointment as President of the soon to be operational

Residual Mechanism, as well as Prosecutor Jallow, who will become Prosecutor of the Mechanism.

We welcome all four briefings from the principals of the two Tribunals, detailing the Tribunals' programmes and plans as they work towards the completion of their mandates, pursuing the fight against impunity for perpetrators of crimes as defined in the statute of the International Criminal Tribunal for the Former Yugoslavia and the statute of the International Criminal Tribunal for Rwanda. We commend the Tribunals for concretizing their mandate completion strategies in many spheres, including investigation, trials at first instance and in appeal, the transfer of cases to national jurisdictions, witness protection, the preservation and dissemination of archives and managing the Tribunals' legacies. Their briefings have informed us about past and future measures in meeting the administrative and judicial challenges of realizing their completion strategies.

We applaud the progress made ahead of schedule by the ICTY on many cases on its judicial calendar, as well as the fact that the ICTR has completed nearly all of its cases at first instance. One of the Tribunals' main challenges lies in the issue of cooperation by States, without which they cannot perform their functions. I need not remind members of the importance of such cooperation in many arenas, including the arrest and transfer of defendants and the relocation of those acquitted or who have served their sentences. Togo calls on all States involved to redouble their efforts in those areas, so as to achieve the completion of the Tribunals' mandates and ensure a solid start for the Residual Mechanism, which is to begin operations in Arusha on 1 July.

The Tribunals have had mixed success in transferring defendants to national courts and jurisdictions. Togo commends the ICTR for its recent progress in transferring cases to Rwanda and for its initiative in establishing a robust system for the oversight of cases transferred to national courts so as to guarantee that defendants receive fair trials.

Togo also commends the Tribunals for working steadily towards completing their mandates, despite the difficulty they face in retaining personnel. Togo is prepared to work with other members of the Council, as well as other relevant United Nations bodies, to find flexible and comprehensive options for dealing with that problem — a problem that, if allowed to go on

unsolved, could compromise the Tribunals' ability to complete their mandates on schedule. We believe that the collective experience of the Tribunals' principals here today, in their respective roles, will be crucial to ensuring a successful transition to the Residual Mechanism, as well as the success of the Mechanism itself.

We strongly support President Joensen's untiring commitment to the relocation of those who have served their sentences or have been found innocent, because, beyond the logistics of relocating them, there are also human rights issues at stake. We believe that, if prisoners who have served out their terms and defendants who have been acquitted continue to be subject to strict surveillance, then they are not enjoying basic, fundamental human rights. We urge the Council to reiterate its call on States to assist in the relocation of former defendants.

Clearly, the Tribunals' four principals here with us today correctly gauge the weight of responsibility they bear, which involves not only steering the transition to the Mechanism but also, as they and we both know with certainty, to press forward the fight against impunity, even after the Tribunals have shut down, and to consolidate the lessons learned and the advances in jurisprudence acquired in the course of the Tribunals' work.

**Mr. Karev** (Russian Federation) (*spoke in Russian*): We would like to thank the Presidents and the Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR) for their reports (see S/2012/354 and S/2012/349) and their briefings. Today's briefings were of special importance, taking place as they are in the month before the opening of the Rwandan branch of the Residual Mechanism. That Mechanism is the first of its kind in the history of international criminal justice, and it will require of both management and staff the utmost focus and accountability. In our view, the Mechanism has been established within parameters that will enable it to carry out substantive work, including conducting trials and appeals, and it has the requisite funding. Moreover, the resources formerly devoted to the Tribunals can be used to add to its financing, if its caseload requires. We anticipate that the first appeals will be referred to the Residual Mechanism in the near future. That will free the Tribunals to focus on their remaining cases within the timeframe set out in resolution 1966 (2010).

Nevertheless, it is unclear whether resolution 1966 (2010) can be implemented. We are concerned by the delays that have been predicted in proceedings by the ICTY. We note the useful measures it has adopted to accelerate its proceedings, thanks to which the cases of *Hadžić* and *Mladić* are ready for trial ahead of schedule. However, those measures have still not dramatically improved the situation. Additional substantive measures are necessary.

The situation in the ICTR is less troubling, although we no longer hear promises of completing its activities any earlier than scheduled. Our view is that, even if appeals in the cases of *Nzabonimana* and *Nizeyimana* are taken up by the ICTR, nothing will prevent the Tribunal from meeting the schedule established in resolution 1966 (2010). Similarly, nothing prevents the taking of a final decision on the transfer of the *Munyagishari* case to the national jurisdiction of Rwanda, especially given the recent transfer to Rwanda of a similar case concerning indictee Uwinkindi.

With regard to cooperation on the part of States in the relevant regions with the Tribunals, we note that in the past several years, thanks to the efforts of national authorities, the Tribunals have advanced considerably in the prosecutions of individuals who have fled from justice. Serbia demonstrated a high level of cooperation in that regard when it transferred the last two fugitives to the ICTY.

With respect to that case, Russia is surprised by the ongoing attempts by the ICTY Prosecutor to pressure Serbian authorities with regard to a matter initiated by them, namely, to investigate the causes underlying the ability of several indictees to hide for so long in Serbia. We firmly recommend that the ICTY Prosecutor focus on the issues that bear directly upon the purview of the Tribunal. It is quite clear that Serbia is conducting a national inquiry that will in no way impact the ICTY trial nor the successful implementation of resolution 1966 (2010).

**Mr. Mehdiyev (Azerbaijan):** At the outset, I wish to thank the Presidents and the Prosecutors of the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), for their comprehensive briefings. We welcome the efforts of both Tribunals to ensure due and full implementation of their mandates.

Significant progress has been registered in the implementation of the completion strategies of the ICTY

and the ICTR during the reporting period. We note with concern that, as in the previous reporting periods, the difficulties in retaining qualified and experienced staff remain an obstacle to the pace of the Tribunals' work. In the past six months the Tribunals have continued, under difficult circumstances, to work professionally towards establishing accountability for the worst crimes. They have also made valuable contributions to the establishment of the International Residual Mechanism for Criminal Tribunals.

We welcome the important measures implemented by the Tribunals to ensure a smooth handover of judicial functions to the International Residual Mechanism for Criminal Tribunals. We take note of the referrals by the Tribunals of some cases to national jurisdictions. That approach serves not only to reduce the overall workload of the Tribunals, but also to strengthen the capacity of national judicial systems and the enforcement of the rule of law at the national level.

The cooperation of States with the Tribunals is a crucial pillar for the latter's effective work and constitutes an essential component of regional ownership. It is therefore important that States remain committed to living up to their obligations to the Tribunals.

We are pleased to note that all fugitives accused by the ICTY have been arrested and transferred to the Tribunal. However, since nine fugitives indicted by the ICTR still remain at large, the continued extensive cooperation of the relevant States is needed.

In conclusion, we wish to commend the Presidents, the Prosecutors and the staff of the two Tribunals for their work and for the steady implementation of their mandates. The continued support of the Security Council is needed, as the Tribunals are in the process of undertaking the necessary steps to keep the trials on track.

**The President (spoke in Chinese):** I shall now make a statement in my capacity as the representative of China.

First of all, I thank Judge Meron, President of the International Criminal Tribunal for the Former Yugoslavia (ICTY); Mr. Brammertz, Prosecutor of the ICTY; Judge Joensen, President of the International Criminal Tribunal for Rwanda (ICTR); and Mr. Jallow, Prosecutor of the ICTR, for their briefings. I also wish to take this opportunity to congratulate Judge Meron on his appointment as President of the International

Residual Mechanism for Criminal Tribunals, as well as Prosecutor Jallow on his appointment as Prosecutor of the Mechanism.

With respect to the work of the two Tribunals, I wish to make the following points. First, the relevant Security Council — resolution 1966 (2010) — requires that the two Tribunals complete their work by the end of 2014. That timeline must be complied with.

My delegation is delighted to learn that the ICTR is expected to complete its work by the target date, and welcomes the substantial progress it has made in referring cases to Rwanda.

As for the ICTY, its compliance with the timeline continues to face challenges. We encourage the ICTY, under President Meron's leadership, to continue to implement relevant reform measures and to further accelerate the pace of the trials of its cases. At the same time, we are pleased to note that the reform measures have already yielded initial results.

Secondly, international cooperation remains critically important. We welcome the continuing respective cooperation extended to the two Tribunals by Serbia, Croatia, Bosnia and Herzegovina and other States of the former Yugoslavia, as well as by the Democratic Republic of the Congo, Kenya and other countries of the Great Lakes region. We call upon those countries to cooperate with the two Tribunals on the handover of persons who have been sentenced and on the relocation of those who have been acquitted. We hope that the relevant United Nations agencies will continue to explore flexible and feasible ways to resolve the difficulties encountered by the two Tribunals relating to staff retention.

Thirdly, efforts must be made to ensure the smooth transition by the two Tribunals to the Residual Mechanism. The Rwanda Branch of the Residual Mechanism will soon be operational, with the ICTY Branch to be launched next year. To ensure the timely and smooth functioning of the Residual Mechanism, the two Tribunals, the United Nations Office of Legal Affairs and the Security Council Informal Working Group on International Tribunals have already accomplished a tremendous amount of work. We hope that those bodies will continue their efforts aimed at resolving outstanding issues as soon as possible.

I now resume my functions as President of the Security Council.

Before giving the floor to representatives of non-members of the Council, I wish to request all speakers to limit their statements to no more than four minutes in order to enable the Council to carry out its work expeditiously.

I now give the floor to the representative of Croatia.

**Mr. Vilević (Croatia):** Allow me, at the outset, to congratulate you, Mr. President, on China's assumption of the presidency of the Security Council for the month of June, as well as to express our confidence in your ability to guide the Council in fulfilling its many duties and responsibilities in these challenging times.

I would like to express my appreciation to Presidents Meron and Joensen, as well as to Prosecutors Brammertz and Jallow, for their comprehensive reports on the work of the Tribunals in the first half of the year (see S/2012/354, S/2012/349), the status of the cases before them and measures undertaken in the implementation of the completion strategy. Croatia strongly supports the diligent efforts of the Tribunals aimed at the smooth transformation of those two unique international institutions into a single body — the International Residual Mechanism for Criminal Tribunals.

In that context, we welcome the recent appointment of the Registrar, President and Prosecutor of the Residual Mechanism, as well as the full establishment of the Mechanism's roster of judges. We congratulate Mr. Hocking, Judge Meron and Prosecutor Jallow, as well as all of the elected judges, on their appointments and elections and express our full confidence in their ability to successfully master the many challenging tasks ahead of them.

Let me now turn specifically to the ICTY and its activities. Croatia welcomes the significant results achieved by the Tribunal to date and, in particular, the fact that all indicted persons have been arrested and transferred to the Tribunal. We expect swift and efficient proceedings in the three remaining first-instance cases, namely, *Karadžić*, *Mladić* and *Hadžić*, as well as the effective handling of appellate activities.

In that regard, Croatia supports the Tribunal's efforts aimed at expediting the overall pace of proceedings by introducing innovative reforms, including a waiver on the direct hiring of interns, as well as retention incentives. We welcome the continuous readiness of the Office of the Prosecutor to provide relevant information to support national investigations on war crimes as

an important contribution to national efforts to end impunity.

Over the reporting period, Croatian officials at the highest level remained engaged in direct dialogue with the Tribunal and the Prosecutor, while the Ministry of Justice and the Office of the State Prosecutor continued to nurture a close and intense working relationship with the Office of the Prosecutor. Last month, Prosecutor Brammertz visited Zagreb and met with the Deputy Prime Minister for Home, Foreign and European Affairs; the Minister of Justice; the State Prosecutor and members of the Task Force.

We are pleased to note that in his report Prosecutor Brammertz has recognized the full and unequivocal cooperation of Croatia with the Office of the Prosecutor. Furthermore, according to the report, it is the Office of the Prosecutor's intention to further rely on that in order to efficiently complete the remaining trials and appeals. We see that as an important recognition of our steadfast efforts to establish efficient and comprehensive cooperation with the Tribunal and its organs in all vital areas. In that regard, I can only reaffirm our intention to continue along that path until the very end of the Tribunal's mandate, and beyond in relation to the Residual Mechanism.

As I said in my previous interventions, Croatia continues to follow with particular attention the new jurisprudence emerging from the Tribunal's work and its potential to shape future criteria for, inter alia, the lawful use of force and the waging of legitimate military action. In that context, we particularly welcome the Tribunal's attempt to further elucidate its impact and legacy, including through engaging the most eminent scholars and practitioners in the field of international criminal and humanitarian law in thorough discussions and analysis of these complex matters. Ensuing interpretations and conclusions will have a serious impact on any future conduct of hostilities, as well as noble efforts aimed at preserving or fostering international peace and security.

With regard to regional cooperation, let me stress that Croatia fully shares the view that cooperation in the region concerning war crimes and related issues is of crucial importance. At the same time, it is our understanding that such cooperation should be carried out with full respect for national jurisdictions and generally accepted principles of international criminal law, including basic principles of legitimate procedure and evidence collection.

Let me conclude by saying that Croatia is deeply committed to the process of reconciliation in the former Yugoslavia. However, we firmly believe that such reconciliation is possible only on the premise of unambiguously established historical facts and their accurate interpretation, and not on their misinterpretation or denial, in particular in the cases of most serious violations of international law, including genocide.

**The President** (*spoke in Chinese*): I now give the floor to the representative of Rwanda.

**Mr. Gasana** (Rwanda): Allow me, at the outset, to congratulate you, Mr. President, on your assumption of the presidency of the Security Council for the month of June.

My delegation wishes to thank the Presidents and Prosecutors of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY) for their reports on the completion strategy of their respective Tribunals. I also take this opportunity to congratulate Judge Vagn Joensen on his election as President of ICTR and wish him every success in presiding over the Tribunal at this critical time.

The year 2012 has been a landmark year for the Rwandan justice system. Eighteen years after the devastating genocide perpetrated against the Tutsi, the trust and cooperation between Rwanda's national justice system and its foreign and international counterparts has reached new heights.

For the first time since the inception of ICTR, and after years of application by the Rwandan Government, the ICTR has transferred a case to Rwanda for trial. The decision to transfer Jean Bosco Uwinkindi has already paved the way for other transfers and extraditions of cases back to Rwanda, particularly the case of Bernard Munyagishari, whose transfer was decided on just yesterday. Rwanda welcomes those developments and expresses its gratitude to the Tribunal for its utmost vote of confidence in Rwanda and its justice system. I particularly want to thank the Prosecutor and his team.

Rwanda also commends the ICTR for the transfer of three other case files to Rwanda. They concern persons alleged to have committed genocide who are still at large, namely, Fulgence Kayishema, Charles Sikubwabo and Ladislav Ntaganzwa. Rwanda, with the support of Member States, vows to make every effort to apprehend those fugitives and to bring them to justice.

Rwanda welcomes the decision taken in January this year by the Quebec Superior Court to extradite Léon Mugesera to Rwanda, a genocide suspect well known for his November 1992 hate speech against the Tutsi. Our Government further welcomes the decision taken in March by the appellate court in Rouen, France, to extradite another genocide suspect, Claude Muhayimana.

Both decisions follow the 27 October 2011 ruling of the European Court of Human Rights on the case of Silvere Ahorugeze, which determined conclusively that his extradition to Rwanda would neither violate article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms, prohibiting inhuman and degrading treatment or punishment, nor article 6 on his right to a fair trial.

Based on that jurisprudence, Rwanda encourages all United Nations Member States to arrest and/or extradite all genocide fugitives and suspects living within their territory, in order to assist in the fight against impunity for the most serious crimes.

Rwanda has always recognized the tremendous job done by the ICTR Tracking Unit and welcomes its transfer to the International Residual Mechanism for Criminal Tribunals, starting 1 July. Rwanda also commends States Members of the United Nations that have arrested genocide fugitives over the past years. We urge all Governments to continue their cooperation with the Tracking Unit in arresting and transferring the remaining fugitives, including the most wanted, Félicien Kabuga.

The Government of Rwanda commends the work done by the ICTR and ICTY in ensuring a digital recordkeeping of archives and a successful transfer to the Residual Mechanism. Rwanda is fully aware that the location of ICTR archives is a sensitive issue, given that various elements are at stake, such as the classification of Governments' documents, the protection of witnesses and easy access by the public. For all those reasons, Rwanda believes that the ICTR archives shall remain the property of the United Nations.

Nonetheless, as has stated on many occasions, Rwanda reiterates its request to host the archives in Kigali upon the completion of the work of the Residual Mechanism. That location would ensure easy access for genocide survivors to records that constitute an integral part of our history and which are vital to the preservation of our collective memory — not to mention the education of future generations. As the archives will

serve as a research centre for scholars and the broader international community, they will support, *inter alia*, the fulfilment of the mission of the United Nations to promote peace and ensure the prevention of genocide.

Rwanda has come a long way in the past 18 years. The international community has lent its unwavering support to the country's fight against impunity. After nearly two decades of operation, the ICTR and the Rwandan community-based jurisdictions — the Gacaca court — are winding down this year. Thanks to both jurisdictions and to tribunals in sister countries in Europe and North America, thousands of genocide perpetrators have been brought to book and thousands of survivors have told their stories and contributed to the process of truth, reconciliation and healing in Rwanda.

Together we must now ensure that the fight against impunity does not flag. My Government reiterates its continued commitment to supporting and expediting the work of the ICTR and the Residual Mechanism.

*The President (spoke in Chinese):* I now give the floor to the representative of Serbia.

**Mr. Starčević (Serbia):** At the outset, let me welcome the President and Prosecutor of the International Criminal Tribunal for the former Yugoslavia (ICTY), Judge Theodor Meron and Mr. Serge Brammertz, as well as the President and the Prosecutor of the International Criminal Tribunal for Rwanda (ICTR), Judge Vagn Joensen and Mr. Hassan Bubacar Jallow. I would also like to take this opportunity to congratulate Judge Joensen on his assumption of the presidency of the ICTR, and Judge Meron, Prosecutor Jallow and Registrar Hocking on their new appointments within the International Residual Mechanism for Criminal Tribunals.

With respect to Serbia's cooperation with the ICTY, it is my pleasure to inform the Security Council that the assessments of my Government and the ICTY's Prosecutor in his report (see S/2012/354) are once again in accord. Since the arrest of Goran Hadžić, in July 2011, there is no longer a single ICTY accused person at large. All of the indictees believed to be in Serbia were arrested by Serbian authorities and transferred to the Tribunal.

With regard to access to documents, archives and witnesses, I am pleased to say that Serbia's cooperation has been impeccable for a long time and that the level of success achieved in those areas has been maintained

during the reporting period. New requests for assistance from both the ICTY Office of the Prosecutor and the defence teams for the accused are being received on a daily basis and dealt with without delay. We completely agree with the Prosecutor's assessment that "the cooperation provided by the Serbian authorities continued to fully meet expectations" (S/2012/354, annex II, para. 48). We believe that the defence teams would give the same assessment with regard to their cooperation with Serbian authorities.

In his May 2012 report, the Prosecutor also paid attention to the issue of the investigation of fugitive networks. Although that question does not fall within the competence of the ICTY, my Government agrees that the issue has certain weight. Since the fugitive issue has been quite a burden for Serbia for a number of years, it is important for us to find out who harboured fugitives. Despite our belief that fugitive harbouring is predominantly an internal issue, my Government has shared information on the ongoing domestic investigation into the issue with the ICTY Office of the Prosecutor in good faith, and will continue to do so.

Serbia is confident that the full level of cooperation achieved with the ICTY will continue in the coming period and that that will ensure a smooth transition to future cooperation with the International Residual Mechanism for Criminal Tribunals.

I would like to repeat that Serbia is willing to continue to cooperate with the Security Council's Informal Working Group on International Tribunals on the issues raised by the archives of the Tribunal. Serbia maintains the position it expressed to the Security Council in October 2008 and reiterates its readiness to actively participate in all future discussions on the matter. Serbia is also willing to share its experiences in cooperating with the ICTY and the results of its domestic war crime trials with other countries and international stakeholders.

My Government will continue to work on the initiative to let countries of the former Yugoslavia sign agreements on enforcement of sentences with the Tribunal. It is clear that Serbia and the entire region have greatly changed since the time when the Secretary-General suggested in his 3 May 1993 report

(S/25704) to the Security Council that the enforcement of sentences should take place outside the territory of the former. That is why we continue to reiterate that the Republic of Serbia is ready to share the responsibility with other countries on that issue. We believe that Serbia and other countries of the former Yugoslavia willing to do the same should be allowed to sign agreements on enforcement of sentences with the Tribunal. Serbia would like to express its expectation that the Security Council will consider our initiative.

By virtue of its efforts and the results obtained, Serbia has contributed to the achievement of international justice, further normalization of the situation and improvement of relations between the States of the Balkans, while making significant contributions to the process of strengthening confidence in the work of national and international institutions.

Our success in cooperating with the Tribunal gives us a moral right to insistently press for effective investigations into allegations of homicide committed for the purpose of organ trafficking by the so-called Kosovo Liberation Army. Serbia expects that the ongoing investigation into those war crimes allegations referred to in the report of the Rapporteur of the Council of Europe dated 7 January 2011 will be conducted professionally, impartially and efficiently in order for the truth to be established and the perpetrators brought to justice.

We have followed the investigation launched by the European Union Rule of Law Mission in Kosovo (EULEX) and have expressed our concerns about the lack of transparency in the conduct of the inquiry. My Government hopes that many critical questions in connection with the EULEX investigation, especially those related to accountability, mandate, jurisdiction and witness protection, will receive satisfactory answers as soon as possible. Bringing the truth to light on allegations of such heinous crimes must remain our top priority.

**The President** (*spoke in Chinese*): There are no more names inscribed on the list of speakers. The Security Council has thus concluded the present stage of its consideration of the item or its agenda.

*The meeting rose at 12.50 p.m.*